

**IN UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

SHERMAN DIVISION

DATE: 5/20/2022

DISTRICT JUDGE
Amos L. Mazzant, III

COURT REPORTER: Chris Bickham
COURTROOM DEPUTY: Keary Conrad

Gibson Brands, Inc., a Delaware corporation	4:19CV358
v.	
Armadillo Distribution Enterprises, Inc., Concordia Investment Partners, LLC	
Does 1 through 10	

ATTORNEYS FOR PLAINTIFF	ATTORNEYS FOR DEFENDANT
Stephen Dale Howen, Andrea Bates, Kurt Schuettinger, Keith Slyter, Paralegal: Amanda Slyter	Vic Henry, Anna B. Naydonov, Douglas Rettew, Elyse McNamara, Patrick Rodgers and Emileigh Hubbard

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

TIME:	MINUTES: Jury Trial - Day 5
9:32:28 a.m.	Court in session. Court notes appearances.
9:32:50 a.m.	Court hears argument from Plaintiff's counsel, Stephen Howen regarding objections to Defendant's Exhibits to be used on the first witness. Court hears response argument from Defendant's counsel, Anna Naydonov. DTX 1540 - Objection overruled.
9:42:34 a.m.	Jury seated.
9:43:18 a.m.	Witness, Cesar Gueikan is reminded that he is still under oath. Plaintiff's counsel, Andrea Bates begins cross examination of witness, Cesar Gueikan.
9:50:43 a.m.	Plaintiff's counsel, Andrea Bates begins re-direct examination of witness, Cesar Gueikan.
9:50:53 a.m.	Pass the witness.
9:50:55 a.m.	Defendant's counsel, Vic Henry begins re-cross examination of witness, Cesar Gueikan.
9:53:04 a.m.	Pass the witness. Court polls the jury for questions of the witness. No questions from the jury. Witness excused.
9:54:32 a.m.	Plaintiff's counsel, Stephen Howen moves for the admission of Plaintiff Exhibit 51.
9:55:43 a.m.	Bench conference (Court).

10:02:04 a.m.	Plaintiff's counsel, Stephen Howen moves for the admission of Plaintiff Exhibit 51. Objection. Court overrules the objection and Plaintiff Exhibit 51 is admitted.
10:03:33 a.m.	Defendant's counsel, Anna Naydonov calls Evan Robinson. Witness placed under oath. Defendant's counsel, Anna Naydonov begins direct examination of witness, Evan Robinson.
10:08:57 a.m.	Defendant's counsel, Anna Naydonov offers DTX 1799. No objection. DTX 1799 is admitted.
10:12:01 a.m.	Defendant's counsel, Anna Naydonov offers DTX 3687. Defendant objects to hearsay. Court overrules the objection. DTX 3687 is admitted.
10:18:25 a.m.	Defendant's counsel, Anna Naydonov offers DTX 1540. Defendant objects to hearsay, relevance, opinion and unduly prejudicial. Court overrules the objection. DTX 1540 is admitted.
10:23:52 a.m.	Defendant's counsel, Anna Naydonov offers DTX 1501, 1502. No objection. DTX 1501, 1502 are admitted.
10:33:33 a.m.	Defendant's counsel, Anna Naydonov offers DTX 1494, 1492, 1491, 1499, 3963, 1496, 1494. No objection. DTX 1494, 1492, 1491, 1499, 3963, 1496, 1494 are admitted.
10:40:11 a.m.	Defendant's counsel, Anna Naydonov offers DTX 3909. Defendant objects to hearsay. Court overrules the objection. DTX 3909 is admitted.
10:41:53 a.m.	Defendant's counsel, Anna Naydonov offers underlying Dean ads that are summarized in the chart. Plaintiff objection as duplicative. They are being offered as underlying documents to the 1006 chart.
10:44:02 a.m.	Defendant's counsel, Anna Naydonov DTX 1547, 1550-1585, 1587-1598, 1658, 1662, 1664, 1666, 1668, 1674, 1678-1679, 1685-1686, 1690, 1708-1709, 1714, 1718-1719, 1734-1738, 1740, 1742, 1746-1749, 1754-1759, 1761, 1764-1767, 1769-1772, 1774-1777, 1779-1789, 1782, 1792, 1795, 1809-1810, 1812-1816, 1826-1828, 1830, 1834, 1836, 1838, 1839, 1840, 1842-1846, 1848-1849, 1851-1854, 1856-1858, 1860-1861, 1871-1877, 1941-1950, 1956-1959, 1981-1986, 2026, 2037, 2039-2040, 2042-2047, 2063-2073, 2075-2078, 2080-2111, 2113-2200, 2202-2226, 2228-2300, 2321-2325, 2328-2330, 2396, 2422-2423, 2425, 2428-2431, 2433, 3627, 3658, 3678-3684, 3687, 3694, 3697-3700, 3713-3717, 3738-3749, 3851. Plaintiff objects to indicate anything other than the guitars and ask for limine instruction and not consider the wording of the advertisement and presentation of any guitar models that are not in dispute in this case as irrelevant.
10:49:03 a.m.	Court overrules the Plaintiff objection and admits the exhibits.
10:49:04 a.m.	Defendant's counsel, Anna Naydonov continues direct examination of witness, Evan Robinson.

10:52:59 a.m.	Defendant's counsel, Anna Naydonov offers DTX 3902, DTX 2466. 3458-3465, 3467-3471, 3661, 3780-3794. Plaintiff's counsel, Stephen Howen takes the witness on voir dire and objects that it is not 806 prove up. Court hears response from Defendant's counsel, Anna Naydonov.
10:54:32 a.m.	Court overrules objection and admits exhibits.
10:55:43 a.m.	Defendant's counsel, Anna Naydonov offers DTX 3902. No objection. DTX 3902 is admitted.
10:57:20 a.m.	Defendant's counsel, Anna Naydonov offers DTX 2440-2791. No objection. DTX 2440-2791 are admitted.
10:58:15 a.m.	Court instructs the jury.
10:58:30 a.m.	Defendant's counsel, Anna Naydonov continues direct examination of witness, Evan Robinson.
10:59:50 a.m.	Defendant's counsel, Anna Naydonov offers DTX 3900. No objection. DTX 3900 is admitted.
11:02:10 a.m.	Defendant's counsel, Anna Naydonov offers DTX 3910. No objection. DTX 1637-1546, 1803-1805, 1896-1897, 1899-1904, 1906-1940, 2201, 3669-3677, 3685-3686, 3688-3696, 3701-3712, 3718-3737, 3910. Plaintiff counsel, Stephen Howen objection/voir dire. Howen objects to any of the exhibits that pre- date the last 6 years - object to an incomplete 806 prove up and hearsay. Court hears response from Defendant's counsel, Anna Naydonov. Court overrules the objection. Exhibits are admitted.
11:05:20 a.m.	Defendant's counsel, Anna Naydonov continues direct examination of witness, Evan Robinson and refers witness to Defendant Exhibit 3910. Defendant's counsel, Anna Naydonov offers Defendant Exhibit 3910. No objection. Defendant Exhibit 3910 is admitted.
11:11:23 a.m.	Defendant's counsel, Anna Naydonov refers witness to Defendant Exhibit 324.
11:19:20 a.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibit 1699. Objection to relevance, not the same design in question. Objection overruled. Exhibit 1699 is admitted.
11:20:19 a.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibit 1700 (the entire catalog). No objection. Defendant Exhibit 1700 is admitted.
11:21:11 a.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibit 1701. No objection. Defendant Exhibit 1701 is admitted.
11:22:20 a.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibit 3802. No objection. Defendant Exhibit 3802 is admitted.

11:23:57 a.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibit 3804. No objection. Defendant Exhibit 3804 is admitted.
11:41:12 a.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibits 3772, 3773, 3774, 3775, 3776, 3777, 3778, 3787. No objection. Exhibits 3772, 3773, 3774, 3775, 3776, 3777, 3778 are admitted.
11:42:10 a.m.	Defendant's counsel, Anna Naydonov refers witness to Plaintiff Exhibits 763 and 765.
11:55:59 a.m.	Defendant's counsel, Anna Naydonov refers witness to Defendant Exhibit 1507.
11:57:46 a.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibit 1812. No objection. Defendant Exhibit 1812 admitted.
11:58:05 a.m.	Jury excused for lunch.
1:11:44 p.m.	Defendant's counsel, Anna Naydonov continues direct examination of witness, Evan Rubenson.
1:15:18 p.m.	Defendant's counsel, Anna Naydonov DTX 1998, 1999, 2000, 2001, 3857, 2002, 2003. No objection. DTX 1998, 1999, 2000, 2001, 3857, 2002, 2003 are admitted.
1:16:29 p.m.	Defendant's counsel, Anna Naydonov refers witness to DTX 1508.
1:28:50 p.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibit 3906. Plaintiff objection as to authenticity, hearsay and underlying documents. Court hears argument from counsel. Objection sustained.
1:31:40 p.m.	Defendant refers witness to Defendant Exhibit 3863. Objection. Exhibit not admitted. Parties agree to show spreadsheet to witness since its not in binder.
1:32:20 p.m.	[RECORD SEALED] Defendant's counsel, Anna Naydonov continues direct examination of witness, Evan Rubenson.
1:34:01 p.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibit 3863. No objection. Defendant Exhibit 3863 is admitted.
1:37:46 p.m.	Defendant's counsel, Anna Naydonov refers witness to Defendant Exhibit 1505.
1:47:01 p.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibits 3858, 3859, 3860, 3861, 3862, 3863, 3944, 3945. No objection. Defendant Exhibits 3858, 3859, 3860, 3861, 3862, 3863, 3944, 3945 are admitted.
1:47:44 p.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibit 3769. No objection. Defendant Exhibit 3769 is admitted.

1:48:26 p.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibits 3764 - 3769, 3948-3950. No objection. Defendant Exhibits 3764 - 3769, 3948-3950 are admitted.
1:49:11 p.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibits 3280-3285, 3949, 3951. No objection. Defendant Exhibits 3280-3285, 3949, 3951 are admitted.
1:51:47 p.m.	[RECORD UNSEALED] Anna Naydonov continues direct examination of witness, Evan Rubenson.
1:53:43 p.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibit 3546. Objection to authenticity. Court hears argument from counsel.
1:57:26 p.m.	Bench conference on Plaintiffs objection.
2:03:00 p.m.	Plaintiff objection is overruled. Defendant Exhibit 3546 is admitted. Defendant offers Exhibit 3906. Objection overruled. Defendant Exhibit 3906 admitted.
2:08:22 p.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibits 1669, 1671, 1692, 1703, 1704, 1705, 1706, 1713, 1716, 1723, 1733, 1750, 1753, 1761, 1763, 1768, 1773, 1791, 1793, 1796, 1797, 1798, 1800, 1801, 1802, 1808, 1823, 1997. 1669, 1671, 1692, 1703, 1704, 1705, 1706, 1713, 1716, 1723, 1733, 1750, 1753, 1761, 1763, 1768, 1773, 1791, 1793, 1796, 1797, 1798, 1800, 1801, 1802, 1808, 1823, 1997 are admitted.
2:14:35	Defendant's counsel, Anna Naydonov offers Defendant Exhibits 40, 41. Plaintiff objects to authenticity, hearsay, prejudicial, subject to limine motion.
2:15:10 p.m.	Bench conference on Plaintiff's objection.
2:25:03 p.m.	Court overrules Plaintiff's objection to Exhibit 40 as to authenticity. Exhibit 40 admitted.
2:34:24 p.m.	Defendant's counsel, Anna Naydonov offers 1513 offered redacted. Plaintiff objection to hearsay, authenticity, Rule 408. Court hears argument from Counsel.
2:34:26 p.m.	Bench conference on Plaintiff's objection.
2:40:12 p.m.	Court sustained Plaintiff objection.
2:40:14 p.m.	Defendant's counsel, Anna Naydonov continues direct examination of witness, Evan Rubenson.
2:43:12 p.m.	Defendant's counsel, Anna Naydonov offers Defendant Exhibits 1957, 1955, 1954, 1953, 1952, 1956. No objection. Defendant Exhibits 1957, 1955, 1954, 1953, 1952, 1956 are admitted.
2:47:58 p.m.	Pass the witness.
2:48:12 p.m.	Jury recess for 15 minutes.

3:05:47 p.m.	Court re-convened. Jury seated.
3:06:19 p.m.	Plaintiff's counsel, Stephen Howen begins cross examination of witness, Evan Rubenson.
3:21:37 p.m.	Plaintiff's counsel, Stephen Howen refers witness to Plaintiff Exhibit 391.
3:58:29 p.m.	Plaintiff's counsel, Stephen Howen offers Plaintiff Exhibit 330. Defendant objection to hearsay. Plaintiff Exhibit 330 admitted.
4:06:04 p.m.	Plaintiff's counsel, Stephen Howen offers Plaintiff Exhibit 544. No objection. Plaintiff Exhibit 544 admitted.
4:07:40 p.m.	Plaintiff's counsel, Stephen Howen offers Plaintiff Exhibit 332. No objection. Plaintiff Exhibit 332 admitted.
4:12:31 p.m.	Plaintiff's counsel, Stephen Howen refers witness to Plaintiff Exhibit 4, 5, 8, 34, 44.
4:27:15 p.m.	Witness short break.
4:31:20 p.m.	Plaintiff's counsel, Stephen Howe continues cross examination of witness, Evan Rubenson and refers witness to Plaintiff Exhibits 20 and 14.
4:51:29 p.m.	Bench conference at Plaintiffs request.
4:53:31 p.m.	Bench conference concluded. Jury excused.
4:54:09 p.m.	Court hears from Plaintiff's counsel, Stephen Howen regarding Plaintiff moving for the admission of Exhibit 582 and insurance. Court hears argument from counsel.
5:05:44 p.m.	Court hears from Plaintiff's counsel regarding deposition transcript and personal knowledge issue
5:08 p.m.	Court adjourned.
	Plaintiff total used: 14:09:27 Defendant total used: 11:52:42 Total court time today: 6:12:00

CASE NO. 4:19CV358 DATE: 5/20/2022

PAGE 7 - PROCEEDINGS CONTINUED:

Plaintiff Exhibits Entered: 51, 330, 332, 391, 544, 763, 765**Defendant Exhibits Entered:** 40, 324, 1491, 1492, 1494, 1496, 1497, 1499, 1501, 1502, 1505, 1507, 1508, 1540, 1547, 1550-1585, 1587-1598, 1637-1646, 1658, 1662, 1664, 1666, 1668, 1669, 1671, 1674, 1678-1679, 1685-1686, 1690, 1692, 1699, 1700, 1701, 1703, 1704, 1705, 1706, 1708-1709, 1713, 1714, 1716, 1718-1719, 1723, 1733, 1734-1738, 1740, 1742, 1746-1749, 1750, 1753, 1754-1759, 1761, 1763, 1764-1767, 1768, 1769-1772, 1773, 1774-1777, 1778, 1779-1789, 1791, 1792, 1793, 1795, 1796, 1797, 1798, 1799, 1800, 1801, 1802, 1803-1805, 1808, 1809-1810, 1812-1816, 1823, 1826-1828, 1830, 1834, 1836, 1838, 1839, 1840, 1842-1846, 1848-1849, 1851-1854, 1856-1858, 1860-1861, 1871-1877, 1896-1897, 1899-1904, 1906-1940, 1941-1950, 1952, 1953, 1954, 1955, 1956-1959, 1981-1986, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2026, 2037, 2039-2040, 2042-2047, 2063-2073, 2075-2078, 2080-2111, 2113-2200, 2201, 2202-2226, 2228-2300, 2321-2325, 2328-2330, 2396, 2422-2423, 2425, 2428-2431, 2433, 2440-2791, 3280-3285, 3458, 3459, 3460, 3461, 3462, 3463, 3464, 3465, 3467, 3468, 3469, 3470, 3471, 3484-3560, 3627, 3658, 3661, 3669-3677, 3678-3684, 3685-3686, 3687, 3688-3696, 3697-3700, 3701-3712, 3713-3717, 3718-3737, 3738-3749, 3764-3769, 3772, 3773, 3774, 3775, 3776, 3777, 3778, 3780, 3781, 3782, 3783, 3784, 3785, 3786, 3787, 3788, 3789, 3790, 3791, 3792, 3793, 3794, 3802, 3804, 3851, 3857, 3858, 3859, 3860, 3861, 3862, 3863, 3900, 3902, 3906, 3909, 3910, 3944, 3945, 3948-3950, 3951, 3963

DAVID O'TOOLE, CLERK

BY: Keary Conrad
Courtroom Deputy Clerk